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No. 06-565

Supreme Court, U.S.
FILED
DEC 19 2006
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In The

Supreme Court of the United States

In re ANDREW J. JOHNSON

Petition for rehearing of order denying
Petition for a writ of habeas corpus

Johnson present his petition for rehearing of this Court's Order dated November 27, 2006, denying the petition for a writ of habeas corpus, and, in support thereof, respectfully shows: Other substantial ground (insufficient evidence) available to Johnson, although not previously presented upon which the petition is based.

The evidence presented by the State of Wyoming in prosecuting Johnson in his criminal matter included the following the state's expert witness testimony, (Appendix A, Johnson v. State, Wyoming District Court, First Judicial District, Docket No. 19-373; trial transcript), and the state's expert witness who conducted tests on the seminal fluid in the victim, excluding 95% of the population and finding that Mr. Johnson was among the 5% who could have left the seminal fluid. (Id. At pp. 233-237).

The biological evidence used at trial in this case was insufficient, because the state's expert witness who conducted tests on the seminal fluid in the victim was not able to prove Johnson left the seminal fluid. (Id. At p. 237).

In Jackson v. Virginia, 443 U.S. 307, 319 (1979) (habeas relief granted for insufficient evidence because prisoner showed that no rational trier of fact, viewing evidence in light most favorable to prosecution, ("could have found the essential elements of the crime beyond a reasonable doubt").

For the foregoing reasons it is respectfully urged that this petition for a rehearing be granted, and that, upon further consideration, a Writ of habeas corpus issue.

Dated: 12/19/06.

Andrew J. Johnson
Attorney for Petitioner